APPEAL NO. 021475
FILED JULY, 24, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on May 8, 2002. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the first, second, third, and fourth quarters. The claimant appealed and the respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is not entitled to SIBs for the first, second, third, and fourth quarters of SIBs because the claimant did not provide a narrative report from a doctor which specifically explains how the injury caused a total inability to work and because he had an ability to work. The parties stipulated that the claimant did not seek employment during the relevant qualifying periods. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work. The hearing officer determined that the claimant did not provide a narrative from a doctor specifically explaining how the injury caused a total inability to work. In addition, the hearing officer noted that there was evidence that indicated the claimant had some ability to work during the relevant qualifying periods. Whether or not the claimant supplied a narrative was a question of fact for the hearing officer. The hearing officer's determination that the claimant did not provide a narrative pursuant to Rule 130.102(d)(4), and is therefore not entitled to SIBs for the first through fourth quarters, is supported by sufficient evidence and it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986).

We note that in his appeal, the claimant asserts the hearing officer erred by not making specific findings as to the carrier's compliance with Rule 130.108(c) and (e). Whether or not the carrier complied with Rule 130.108 was not an issue at the hearing, therefore the hearing officer was under no obligation to discuss it, let alone make specific findings in relationship to it. We will not consider the arguments made by the claimant for the first time on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **LIBERTY MUTUAL FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

CT CORPORATION SYSTEMS
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.

_____
Daniel R. Barry
Appeals Judge

CONCUR:

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Elaine M. Chaney
Appeals Judge

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Susan M. Kelley
Appeals Judge